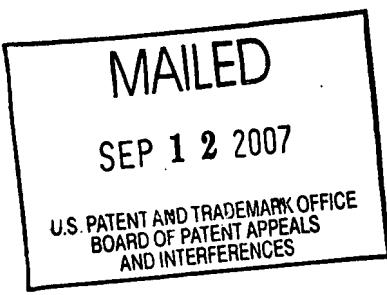


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS GLEN HARMER and CARL CALFIN

Application 10/633,262

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on September 5, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

Information Disclosure Statements (IDS) were filed November 11, 2005 and December 12, 2005. It is not apparent from the record that the examiner considered the statements submitted or notified applicants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Further review of the file indicates that the appellants filed a “PETITION TO MAKE SPECIAL” on September 27, 2004 and Terminal Disclaimer on August 18, 2005. However, there is no indication that the Examiner considered the Petition or the Terminal Disclaimer. Correction is required.

Also, the Appeal Brief filed April 11, 2006 reveals that the following required sections are missing:

“EVIDENCE APPENDIX” as set forth in 37 CFR § 41.37(c)(1)(ix)

“RELATED PROCEEDINGS APPENDIX,” as set forth in 37 CFR § 41.37(c)(1)(x)

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) for consideration of the Information Disclosure Statements filed November 11, 2005 and December 12, 2005;

2) for consideration and proper response to the “PETITION TO MAKE SPECIAL” filed on September 27, 2004 and the Terminal Disclaimer filed on August 18, 2005;

3) hold the Appeal Brief filed on April 11, 2006, defective;

4) notify appellants to file a Supplemental Appeal Brief incorporating the Evidence Appendix” as set forth in 37 CFR § 41.37(c)(1)(ix) and the “Related Proceedings Appendix,” as set forth in 37 CFR § 41.37(c)(1)(x) ;

5) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplemental Brief; and

6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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PJN/gjh

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